(Name) THMAS BROOKS 200814903
(Address) P-Box 710 - 200814903
(City, State, Zip) RIVERSIDE CA 92501
(CDC Inmate No.) 200814903

FILED
MAY 29 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

2254 ___ 1983 ✓
FILING FEE PAID
Yes ___ No ✓
IFP MOTION FILED
Yes ✓ No ___
COPIES SENT TO
Court ✓ ProSe

United States District Court
Southern District of California

(Enter full name of plaintiff in this action.)

THOMAS BROOKS Plaintiff,

v.

CAPT MYYRS
(Enter full name of each defendant in this action.)
C.O GRESHAM Defendant(s).

'08 CV 0960 H JMA

Civil Case No. ___
(To be supplied by Court Clerk)

Complaint Under the Civil Rights Act 42 U.S.C. § 1983

A. Jurisdiction

Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional authority, list them below.

B. Parties

1. Plaintiff: This complaint alleges that the civil rights of Plaintiff, THOMAS BROOKS (print Plaintiff's name), who presently resides at P-Box 710 - 200814903 (mailing address or place of confinement) RIVERSIDE CA 92501, were violated by the actions of the below named individuals. The actions were directed against Plaintiff at RIVERSIDE JAIL (institution/place where violation occurred) on (dates) 5 12 08 (Count 1), ___ (Count 2), and ___ (Count 3).

2. Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

§ 1983 SD Form
(Rev. 5/98)

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Defendant GRESHAM (name) resides in (County of residence), and is employed as a CORRECTION DEPUTY (defendant's position/title (if any)). This defendant is sued in his/her ☒ individual ☒ official capacity. (Check one or both.) BOTH Explain how this defendant was acting under color of law: IS EMPLOYED OF SHERIFF DEPT

Defendant ST. GERMAIN (name) resides in (County of residence), and is employed as a CORRECTIONAL DEPUTY (defendant's position/title (if any)). This defendant is sued in his/her ☒ individual ☒ official capacity. (Check one or both.) BOTH Explain how this defendant was acting under color of law: IS EMPLOYED BY SHERIFF DEPT

Defendant WALTER MYERS (name) resides in (County of residence), and is employed as a CAPT. OF JAIL (defendant's position/title (if any)). This defendant is sued in his/her ☐ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: ALLOWING HIS STAFF TO MANHANDLE ME, I AM WHEELCHAIR USER, STAFF DON'T COMPLY WITH RIGHT WAY ADA LAWS STAFF IS NOT TRAINED TO DEAL WITH DISABLED INMATES

Defendant ______ (name) resides in ______ (County of residence), and is employed as a ______ (defendant's position/title (if any)). This defendant is sued in his/her ☐ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting under color of law:

C. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary.)

Count 1: The following civil right has been violated: FREEDOM FROM CRUEL AND UNUSUAL PUNISHMENT, (E.g., right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 1.]

CO GRESHAM CAME IN TO MY CELL, AND KEEP TRYING TO FORCE MY ARMS BEHIND MY BACK, THAT IS IMPOSSIBLE BECAUSE I AM IN 34" WHEELCHAIR AND OVER HOO POUNDS PLUS I WAS PINNED AGAINST CELL TABLE WHEN HE AND HIS PARTNER SAW I COULD NOT GET HANDS BEHIND BACK HE GRABED FRONT OF WHEELCHAIR AND FLIPPED ME BACKWARDS, BASHING MY HEAD ON TABLE FIRST THEN SITTING STOOL FOR TABLE, THEN FLOOR THE STAFF KEPT PEPPER SPRAYING ME BECAUSE THEY THOUGHT I WAS RESISTING THEM BY NOT CUFFING BEHIND MY BACK WHEN IT [illegible] POSSIBLE FOR SOMEONE [illegible] TO THIS [illegible] I HAVE BEEN [illegible] TIMES [illegible] A NUMBER OF STAFF HAS NEVER CUFFED MY [illegible] MY BACK DUE TO MEDICAL DISABILITY.

Count 2: The following civil right has been violated: RIGHT TO SHOWER AFTER BEING PEPPERSPRAYED (E.g., right to medical care, access to courts, CLEMENT VS GOMEZ 9TH CIR 2002 298 F 3d 898 due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 2.]

THE STAFF AFTER INCIDENT LISTED ON COUNT ONE REFUSED TO ALLOW ME SHOWER FOR 3 DAYS I WAS COVERED IN PEPPER SPRAY FOR 3 DAY, STAFF REQUIRED TO ALLOW ME TO SHOWER WITHIN HOURS. PER COURT RULING CLEMENT VS GOMEZ 9TH CIR 2002 - 298 F 3d 898 ALSO STAFF VIOLATED COURT RULING ARMSTRONG VS DAVIS RULING WHILE RESTRAINTS ARE BEING PUT ON THEM [illegible] PUT ON UNDER THE DIRECTION OF SUPERVISOR IN CHARGE THIS DID NOT HAPPEN, AS A RESULT STAFF VIOLATED MY RIGHTS, AND INFLICTED PAIN/SUFFERING, AND VIOLATED FEDERAL LAWS, AND ADA LAWS

Count 3: The following civil right has been violated:

(E.g., right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 3. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 3.]

STAFF CONSTANTLY
REFUSE TO LET ME
SHOWER, THERE IS AN
WRITTEN ORDER BY LT
WILHELM STATING I WILL
BE ALLOWED SHOWER MON
WED FRI, BETWEEN 5 PM
10 PM MOST
WONT STAFF
COMPLY WITH
THAT ORDER, ON MINIMUM
AVERAGE I GET SHOWER
ONCE EVERY 8-10 DAYS,
BUT STAFF REFUSE TO ALLOW
MY SHOWER MOST OF THE
TIME,

D. Previous Lawsuits and Administrative Relief

1. Have you filed other lawsuits in state or federal courts dealing with the same or similar facts involved in this case? ☐ Yes ☒ No.

If your answer is "Yes", describe each suit in the space below. [If more than one, attach additional pages providing the same information as below.]

(a) Parties to the previous lawsuit:
Plaintiffs: ______________________________
Defendants: ______________________________

(b) Name of the court and docket number: ______________________________
______________________________.

(c) Disposition: [For example, was the case dismissed, appealed, or still pending?] ______________________________
______________________________.

(d) Issues raised:
____
____
____
______________________________.

(e) Approximate date case was filed: ______________________________.

(f) Approximate date of disposition: ______________________________.

2. Have you previously sought and exhausted all forms of informal or formal relief from the proper administrative officials regarding the acts alleged in Part C above? [E.g., CDC Inmate/Parolee Appeal Form 602, etc.] ? ☒ Yes ☐ No.

If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No", briefly explain why administrative relief was not sought.

I HAVE ASKED A NUMBER OF TIMES TO SPEAK [illegible] INTERNAL AFFAIRS ON THIS AND OTHER MATTER THAT ARE GOING ON ILLEGALLY AT THIS FACILITY [illegible] THE STAFF WILL [illegible] MAY BE [illegible] OF [illegible] ILLEGAL ACTS GOING ON HERE, OR EVEN FBI OR DOJ AND CONSPIRACY

E. Request for Relief

Plaintiff requests that this Court grant the following relief:

1. An injunction preventing defendant(s):

2. Damages in the sum of $ 10,000

3. Punitive damages in the sum of $ 10,000

4. Other: $25,000 Violation Americas with Disability Act, Pain/Suffering

F. Demand for Jury Trial

Plaintiff demands a trial by ☒ Jury ☐ Court. (Choose one.)

G. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 1983 Prisoner cases filed in this district, the Court has adopted a case assignment involving direct assignment of these cases to magistrate judges to conduct all proceedings including jury or bench trial and the entry of final judgment on consent of all the parties under 28 U.S.C. § 636(c), thus waiving the right to proceed before a district judge. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to utilize this efficient and expeditious program for case resolution due to the trial judge quality of the magistrate judges and to maximize access to the court system in a district where the criminal case loads severely limits the availability of the district judges for trial of civil cases. Consent to a magistrate judge will likely result in an earlier trial date. If you request that a district judge be designated to decide dispositive motions and try your case, a magistrate judge will nevertheless hear and decide all non-dispositive motions and will hear and issue a recommendation to the district judge as to all dispositive motions.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including trial, and the entry of final judgment by indicating your consent below.

Choose only one of the following:

☒ Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR

☐ Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

I declare under the penalty of perjury that the foregoing is true and correct.

5 13 08
Date

[signature]
Signature of Plaintiff

§ 1983 SD Form
(Rev. 5/98)

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JS44
(Rev. 07/89)

CIVIL COVER SHEET

FILED
MAY 2 9 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY [signature] DEPUTY

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

2254 / 1983
FILING FEE PAID Yes ___ No ✓
IFP MOTION FILED Yes ✓ No ___
COPIES SENT TO Court ✓ Prose

I (a) PLAINTIFFS: **Thomas Brooks**

DEFENDANTS: **Myers, et al.**

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES): Riverside

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Thomas Brooks
PO Box 710
Riverside, CA 92501
200814903

ATTORNEYS (IF KNOWN)

'08 CV 0960 H JMA

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT (For Diversity Cases Only)

	PT	DEF		PT	DEF
Citizen of This State	☐1	☐1	Incorporated or Principal Place of Business in This State	☐4	☐4
Citizen of Another State	☐2	☐2	Incorporated and Principal Place of Business in Another State	☐5	☐5
Citizen or Subject of a Foreign Country	☐3	☐3	Foreign Nation	☐6	☐6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

42 U.S.C. 1983

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT
- ☐ 110 Insurance
- ☐ Marine
- ☐ Miller Act
- ☐ Negotiable Instrument
- ☐ 150 Recovery of Overpayment &Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153Recovery of Overpayment of Veterans Benefits
- ☐ 160 Stockholders Suits
- ☐ Other Contract
- ☐ 195 Contract Product Liability

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Eiectmant
- ☐ 240 Tort to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS — PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury- Medical Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/Accommodations
- ☐ 444 Welfare
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence Habeas Corpus
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☒ 550 Civil Rights

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC881
- ☐ 630 Liquor Laws
- ☐ 640 RR & Truck
- ☐ 650 Airline Regs
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710Fair Labor Standards Act
- 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt. Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc.
- ☐ Security Act

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (13958)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS - Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reappointment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities Exchange
- ☐ 875 Customer Challenge 12 USC
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State
- ☐ 890 Other Statutory Actions

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appelate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23 **DEMAND $** Check YES only if demanded in complaint: **JURY DEMAND:** ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE Docket Number

DATE 5/29/2008 ~~SIGNATURE OF ATTORNEY OF RECORD~~

[signature]